

LEGISLATURE OF NEBRASKA
NINETY-SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 698

Introduced by Suttle, 10

Read first time January 20, 1999

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to nursing; to amend sections 71-1,132.09,
2 71-1,132.11, 71-1,132.20, 71-1,132.21, 71-1,132.27, and
3 71-1,132.31, Reissue Revised Statutes of Nebraska, and
4 sections 71-1,132.13, 71-1,132.30, and 71-1,132.37,
5 Revised Statutes Supplement, 1998; to change provisions
6 relating to Board of Nursing meetings, renewal,
7 reinstatement, and lapse of nursing licenses, surveys by
8 the board, health maintenance activities, and licensed
9 practical nurse license requirements; to provide powers
10 and duties for the board and the executive director; to
11 harmonize provisions; and to repeal the original
12 sections.
13 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 71-1,132.09, Reissue Revised Statutes
2 of Nebraska, is amended to read:

3 71-1,132.09. The board, at the last scheduled meeting of
4 the calendar year, shall ~~meet annually during the month of January~~
5 ~~and shall~~ elect from its members a president, vice president, and
6 secretary, each of whom shall hold office for one year. ~~It~~ The
7 board shall hold at least three regular meetings each year upon
8 such dates and times as may be determined by the board. A quorum
9 shall be a simple majority of the appointed members of the board.

10 Sec. 2. Section 71-1,132.11, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 71-1,132.11. The board may adopt, promulgate, and
13 revise, with the approval of the department, such rules and
14 regulations consistent with the Nurse Practice Act as may be
15 necessary to carry the act into effect. All such rules and
16 regulations shall be published and distributed. The board shall:

17 (1) Adopt reasonable and uniform standards for nursing
18 practice and nursing education; ~~which are reviewed at least every~~
19 ~~four years;~~

20 (2) If requested, issue or decline to issue advisory
21 opinions defining acts which in the opinion of the board are or are
22 not permitted in the practice of nursing as defined in section
23 71-1,132.05. Such opinions shall be considered informational only
24 and are nonbinding;

25 (3) Establish rules and regulations for approving and
26 classifying programs preparing practical and professional nurses,
27 taking into consideration administrative and organizational
28 patterns, the curriculum, students, student services, faculty, and

1 instructional resources and facilities, and provide surveys for
2 each educational program ~~at least every four years or more~~
3 ~~frequently as deemed necessary as determined by the board;~~

4 (4) Approve educational programs which meet the
5 requirements of the act;

6 (5) Examine, license, and renew the licenses of duly
7 qualified applicants;

8 (6) Keep a record of all its proceedings and compile an
9 annual report for distribution;

10 (7) Develop standards for continued competency of
11 licensees continuing in or returning to practice;

12 (8) Adopt rules and regulations establishing standards
13 for delegation of nursing activities, including training or
14 experience requirements, competency determination, and nursing
15 supervision;

16 (9) Make recommendations in accordance with section
17 71-168.01 regarding licensure and disciplinary dispositions for
18 individuals who have violated the act and upon the grounds provided
19 in the Uniform Licensing Law;

20 (10) Collect data regarding nursing;

21 (11) Provide consultation, and conduct conferences,
22 forums, studies, and research on nursing practice and education;

23 (12) Join organizations that develop and regulate the
24 national nursing licensure examinations and exclusively promote the
25 improvement of the legal standards of the practice of nursing for
26 the protection of the public health, safety, and welfare;

27 (13) Appoint special purpose groups or ad hoc groups to
28 advise the board; ~~and~~

1 (14) Administer the provisions of the Advanced Registered
2 Nurse Practitioner Act as it applies to certified registered nurse
3 anesthetists and the Nebraska Certified Nurse Midwifery Practice
4 Act; and

5 (15) Participate in the Nurse Licensure Compact.

6 Sec. 3. Section 71-1,132.13, Revised Statutes
7 Supplement, 1998, is amended to read:

8 71-1,132.13. (1) An applicant for a license to practice
9 as a registered nurse shall file with the department a written
10 application for a license and submit satisfactory proof that the
11 applicant (a) is of good moral character, (b) has completed four
12 years of high school study or its equivalent as determined by the
13 ~~department~~ board, and (c) has completed the basic professional
14 curriculum in and holds a diploma from an accredited program of
15 professional nursing approved by the board. Graduates of foreign
16 nursing programs shall ~~have passed~~ pass the Canadian Nurses
17 Association Testing Service or hold a certificate from the
18 Commission on Graduates of Foreign Nursing Schools. Such
19 application shall be made upon a form prescribed and approved by
20 the department, verified by the applicant's oath, and accompanied
21 by an application fee established by rules and regulations of the
22 department. The application shall include the applicant's social
23 security number.

24 (2) If an applicant for an initial license files an
25 application for licensure within ninety days prior to the biennial
26 renewal date of the license, the applicant may either:

27 (a) Request that the department delay the processing of
28 the application and the issuance of the license until the biennial

1 renewal date and pay only the fee for initial licensure; or

2 (b) Request that a license which will be valid until the
3 next subsequent renewal date be issued immediately and pay the fee
4 for initial licensure and an additional fee of one-fourth of the
5 biennial fee.

6 Sec. 4. Section 71-1,132.20, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 71-1,132.20. (1) The license of every registered nurse
9 or licensed practical nurse shall be renewed biennially. The
10 biennial expiration date is October 31 of every odd-numbered year
11 for licensed practical nurses and October 31 of every even-numbered
12 year for registered nurses. The biennial license renewals provided
13 for in this section shall be accomplished in such manner as the
14 department, with the approval of the board, shall establish by rule
15 and regulation.

16 (2) On or before August 1 of each renewal year, the
17 department shall mail an application for renewal of license to
18 every person to whom such license was issued or renewed during the
19 current renewal period. The applicant shall complete and return
20 the application to the department with a renewal fee established by
21 the department pursuant to section 71-1,132.49 on or before October
22 31 following the mailing of such notice. Upon receipt of the
23 application and fee, the department shall verify the accuracy of
24 the application and issue to the applicant a certificate of renewal
25 for the renewal period beginning November 1 following the mailing
26 of such notice. The certificate of renewal shall render the holder
27 thereof a legal practitioner of nursing for the period stated on
28 the certificate of renewal.

1 (3) A licensed practical nurse or registered nurse who
2 wishes to have his or her license lapse upon expiration shall give
3 the department written notice to that effect. The department shall
4 notify the licensee in writing of the acceptance or denial of the
5 request to allow the license to lapse. When the lapsed status
6 becomes effective, the right to practice nursing and to represent
7 himself or herself as a licensed practical nurse or registered
8 nurse shall terminate. To restore the license, the individual
9 shall be required to meet the renewal requirements in effect at the
10 time he or she wishes to restore the license and pay the renewal
11 fee and an additional fee of fifty dollars.

12 (4) A licensed practical nurse or registered nurse who
13 wishes to have his or her license placed on inactive status upon
14 expiration shall give the department written notice to that effect
15 and pay the fee provided in section 71-1,132.49. The department
16 shall notify the licensee in writing of the acceptance or denial of
17 the request to allow the license to be placed on inactive status.
18 When the license is placed on inactive status, the licensee shall
19 not engage in the practice of nursing. A license may remain on
20 inactive status for an indefinite period of time. In order to move
21 a license from inactive to active status, an individual shall meet
22 the renewal requirements in effect at the time he or she wishes to
23 regain active status and pay the renewal fee and reinstatement fee
24 due at such time as specified in section 71-1,132.49.

25 (5) Any licensed practical nurse or registered nurse who
26 fails to (a) notify the department that he or she wishes his or her
27 license to lapse or to be placed on inactive status or (b) meet the
28 renewal requirements, on or before the date of expiration of his or

1 her license, shall be given a second notice in the same manner as
2 the first notice advising him or her (i) of the failure to pay,
3 (ii) that the license has expired, (iii) that the department will
4 suspend action for thirty days following the date of expiration,
5 (iv) that upon the receipt of the renewal fee, together with an
6 additional fee of fifty dollars, within that time the license will
7 be renewed, ~~no order of revocation will be entered,~~ and (v) that
8 upon the failure to receive the amount then due and fifty dollars
9 in addition to the regular renewal fee, the license will be ~~revoked~~
10 ~~in the same manner as provided in section 71-149~~ placed on lapsed
11 status.

12 ~~(6) Any licensee who fails to renew his or her license~~
13 ~~may have such license reinstated upon the recommendation of the~~
14 ~~board and the payment of the renewal fee and an additional fee of~~
15 ~~fifty dollars if an application for reinstatement is made more than~~
16 ~~thirty days after expiration and not more than one year from the~~
17 ~~date of revocation.~~

18 ~~(7) Any licensee who applies for reinstatement after one~~
19 ~~year of revocation shall pay an additional fee of seventy-five~~
20 ~~dollars and petition the board to recommend reinstatement in the~~
21 ~~same manner as provided in section 71-161.05.~~

22 ~~(8) (6)~~ A fee to be determined by rules and regulations
23 pursuant to section 71-1,132.49 shall be charged to any registered
24 nurse or licensed practical nurse for the issuance of a
25 certification of credentials to another state and to any
26 educational institution or agency.

27 ~~(9) (7)~~ In order to insure that all nurses have
28 sufficient scientific and practical knowledge to continue to

1 practice nursing, a license to practice nursing shall not be
2 renewed after January 1, 1997, unless the nurse has within the
3 preceding five years engaged in the practice of nursing for a
4 minimum of five hundred hours and completed twenty contact hours
5 within the previous two years of either:

- 6 (a) Inservice education provided by the employer; or
7 (b) Continuing education courses which meet requirements
8 as specified by the board in rules and regulations.

9 The department, with the concurrence of the board, may
10 waive continuing education or inservice requirements, for any
11 two-year licensing period when a licensee submits documentation
12 that circumstances justify such waiver. Such circumstances shall
13 be defined in rules and regulations.

14 If more than five years have elapsed since the individual
15 has practiced nursing as defined in section 71-1,132.05, the
16 individual must complete a seventy-five-hour approved review course
17 of study before his or her license can be renewed. Such course may
18 be individually designed and must include a practice or clinical
19 component.

20 Sec. 5. Section 71-1,132.21, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 71-1,132.21. Any person practicing nursing during the
23 time his or her license has expired or lapsed or is suspended,
24 revoked, or on inactive status shall be considered an illegal
25 practitioner and shall be subject to a fine of ten dollars for each
26 day the person practiced on an expired, lapsed, suspended, revoked,
27 or inactive license up to a maximum of one thousand dollars or
28 other such penalties provided for violation of the Nurse Practice

1 Act.

2 Sec. 6. Section 71-1,132.27, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 71-1,132.27. ~~At least every four years or as deemed~~
5 ~~necessary by the board, the~~ The board shall, through its executive
6 director or other representative appointed by the board, survey all
7 programs of nursing in the state at time intervals to be determined
8 by the board through rules and regulations. Written reports of
9 such surveys shall be submitted to the board. The board shall act
10 on the report to grant or deny continuing approval of the program.

11 Sec. 7. Section 71-1,132.30, Revised Statutes
12 Supplement, 1998, is amended to read:

13 71-1,132.30. The Nurse Practice Act confers no authority
14 to practice medicine or surgery. The act does not prohibit
15 performance of health maintenance activities by a designated
16 ~~caregiver~~ care aide for a competent individual at the direction of
17 that individual or at the direction of a caretaker for any
18 individual who is not competent. Health maintenance activities are
19 those activities which enable the individual to live in his or her
20 home and community. Such activities are those specialized
21 procedures, beyond activities of daily living, which the individual
22 would perform for himself or herself if he or she were physically
23 able ~~and which the~~ or those activities performed by a caretaker.
24 The attending physician or registered nurse ~~determines~~ shall
25 determine which health maintenance activities can be safely
26 performed in the home and community by a designated ~~caregiver~~ care
27 aide as directed by the competent individual or caretaker. A
28 competent individual is someone who has the capability and capacity

1 to make an informed decision. A caretaker is a parent, foster
2 parent, family member, friend, or legal guardian who provides care
3 for an individual.

4 Sec. 8. Section 71-1,132.31, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 71-1,132.31. The board shall appoint an executive
7 director who is a registered nurse currently licensed in this state
8 and who has a graduate degree in nursing. The executive director
9 shall have a minimum of five years' experience within the last ten
10 years in the areas of administration, teaching, or consultation in
11 the field of nursing. The salary of the executive director shall
12 be fixed by the department and be competitive with salaries for
13 similar positions of responsibility which require similar education
14 and experience. The executive director shall not be a member of
15 the board. The executive director shall be the administrator of
16 the Nurse Licensure Compact.

17 The department shall appoint a practice consultant and an
18 education consultant, each of whom is a registered nurse currently
19 licensed in this state and has a minimum of five years' experience.
20 On and after January 1, 1995, any person newly appointed to these
21 positions shall also have a graduate degree in nursing. The
22 salaries for these positions shall be fixed by the department and
23 be competitive with salaries for similar positions of
24 responsibility which require similar education. The nursing
25 education consultant and nursing practice consultant shall not be
26 members of the board.

27 The department shall appoint one or more nurse
28 investigators to conduct investigations of violations of the Nurse

1 Practice Act. Each nurse investigator shall be a registered nurse
2 currently licensed in this state and have a minimum of five years'
3 experience in nursing practice. The nurse investigators shall not
4 be members of the board.

5 Sec. 9. Section 71-1,132.37, Revised Statutes
6 Supplement, 1998, is amended to read:

7 71-1,132.37. (1) An applicant for a license to practice
8 as a licensed practical nurse shall file with the department a
9 written application for a license which shall include the
10 applicant's social security number, pay the fee as set by the
11 department, and submit satisfactory proof that the applicant:

12 (a) Is of good moral character;

13 (b) Has completed four years of high school study or its
14 equivalent as determined by the board; and

15 (c) Has completed the basic curriculum in and holds a
16 diploma from an approved program of ~~practical~~ nursing.

17 (2) If an applicant for an initial license files an
18 application for licensure within ninety days prior to the biennial
19 renewal date of the license, the applicant may either:

20 (a) Request that the department delay the processing of
21 the application and the issuance of the license until the biennial
22 renewal date and pay only the fee for initial licensure; or

23 (b) Request that a license which will be valid until the
24 next subsequent renewal date be issued immediately and pay the fee
25 for initial licensure and an additional fee of one-fourth of the
26 biennial fee.

27 Sec. 10. Original sections 71-1,132.09, 71-1,132.11,
28 71-1,132.20, 71-1,132.21, 71-1,132.27, and 71-1,132.31, Reissue

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1 Revised Statutes of Nebraska, and sections 71-1,132.13,
2 71-1,132.30, and 71-1,132.37, Revised Statutes Supplement, 1998,
3 are repealed.